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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,502	10/30/2003	Regis J. Crinon	MS1-1624US	8051

7590

08/26/2005

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EXAMINER
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SUN, SCOTT C

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/697,502

Applicant(s)

CRINON ET AL.

Examiner

Scott Sun

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-33,36-38,41 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34,35,39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-42 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15, drawn to instructions for evaluating data transmission conditions and selecting data transfer rates based on the evaluation of the data transmission conditions, classified in class 710, subclass 60.
  - II. Claims 16-22, 28-30, drawn to a processor-readable medium comprising processor-executable instructions for configuring a buffer on a receiver to receive data, classified in class 710, subclass 52.
  - III. Claims 23-27, 41-42, 31-33, 36-38, drawn to a transmitter having a multiplexer to multiplex a descriptor with encoded data, classified in class 370, subclass 343.
  - IV. Claims 34-35, 39-40 drawn to a receiver monitoring reception characteristics and statistics, to select between conventional and robust channels, classified in class 714, subclass 799.

Inventions I – IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I can be used to increase signal reliability by adjusting transfer rates without inventions II – IV. Similarly, invention II can be used independently to minimize buffer size on a

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receiver to reduce start-up delay and prevent overflow/underflow. Invention III can be used independently to communicate a variety of control signals to a receiver such as encryption scheme. Invention IV can be used independently to allow a receiver to select a more reliable channel/subchannels when detecting deterioration in transmitted signals. See MPEP j 806.05(d).

2. During a telephone conversation with Jared Goff on 8/18/2005 a provisional election was made with traverse to prosecute the invention of group IV, claims 34, 35, 39, 40. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-33, 36-38, 41, 42 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 34, 35, 38, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (PG Pub# US 2002/0061073 A1) in view of Ribas-Corbera et al. (PG Pub# US 2003/0053416 A1) and Naegel et al. (US Patent 6, 775, 840)

As per claim 34, Huang discloses a receiver, comprising:

Detecting a descriptor within data transmitted by a transmitter; (paragraph 71)

Obtaining data transmission rate information from the descriptor; (paragraph 71-75)

Huang does not disclose expressly monitoring reception characteristics and statistics, to select between conventional and robust channels within the transmitted data to reliably receive data. Naegel discloses a method for monitoring reception characteristics and statistics, to select between conventional and robust channels within the transmitted data to reliably receive data. (figure 7, column 13, line 1-27)

Huang does not disclose expressly identifying a corresponding set of buffer parameters from the descriptor and buffering the received data until a buffer contains more than an initial buffer fullness values included within the buffer parameters. Ribas-Corbera teaches identifying a corresponding set of buffer parameters from a descriptor, and buffering the received data until a buffer contains more than an initial buffer fullness values included within the buffer parameters (paragraphs 8, 9, 28-30, 34-35)

As per claim 35, Huang does not disclose expressly the receiver of claim 34, additionally comprising instructions for reconfiguring the memory resources and the flow control logic upon receipt of a descriptor having updated data. Ribas-Corbera teaches an algorithm for reconfiguring the memory resources and the flow control logic on a receiver upon receipt of a descriptor having updated data. (paragraph 25-48)

Huang's invention and Ribas-Corbera's invention are analogous art because they are from the same field of signal transmission/broadcasting. Furthermore, at the time of the invention it would have been obvious to combine Huang's invention with Ribas-

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Corbera's invention by adding Ribas-Corbera's "leaky bucket" algorithm to Huang's transmitter/receiver. The motivation for doing so would have been to minimize start-up delay by using the smallest buffer size allowed by the "leaky bucket" algorithm (Ribas-Corbera, paragraph 9-10)

Huang's invention combined with Ribas-Corbera and further with Naegel's invention are analogous art because they are from the same field of signal transmission/broadcasting, particularly in noise reduction. Furthermore, at the time of the invention it would have been obvious to combine Huang's invention with Naegel's invention by adding Naegel's channel selection algorithm to Huang's receiver. The motivation for doing so would have been to further provide the receiver with noise reduction capabilities in the case of a multi-channel transmission (Naegel, column 1, lines 10-12; column 6, lines 44-49)

As per claims 39 and 40, the examiner finds these claims differ from claims 34 and 35 only in statutory category. The same arguments used in rejection of claims 34 and 35 are applied in rejection of claims 39 and 40.

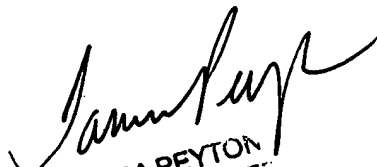
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Sun whose telephone number is (571) 272-2675. The examiner can normally be reached on M-F, 10am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571) 272-4083. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SS

8/18/2005

  
TAMMARA PEYTON  
PRIMARY EXAMINER